

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE, CHENNAI

ORIGINAL APPLICATION No.118 of 2021 (SZ)

D.Sakthivel,

S/o Devaraj,

23, Main Road,

Pavai Thanneerpandal palayam,

Periyasemur,

Erode - 638 004,

Erode District.

...

Applicant

versus

The Commissioner,

Erode City Municipal Corporation,

894, Meenatchi Sundaranar Road,

Erode - 638 001,

Erode District.

...

5th Respondent

COUNTER AFFIDAVIT FILED ON BEHALF OF THE 5th RESPONDENT

I, M.Elangovan, aged 50 years, son of Manickam, working as Commissioner, Erode City Municipal Corporation, Erode, Erode District herein do hereby solemnly affirm and sincerely state as follows:-

- 1) I am the Commissioner of Erode City Municipal Corporation. I am fully aware of the facts and circumstances of the case.
- 2) The above petition is false, frivolous, vexatious, and not maintainable in law and on facts.

3) This respondent does not admit the averments of the petitioner made in the petition. Save those averments which are openly and specifically admitted herein, the petitioner is put to strict proof of each and every one of the same.

4) It is not admitted that the applicant is the aggrieved person due to the proposal of the 6th respondent in setting up the Petroleum retail outlet on the Sathy - Erode Main road in Survey No.27/2 of Periyasemur village within the prohibited distance of 50 metres from the primary school, water body and road junction. The applicant has not objected prior to the starting of the outlet and the present application is ill minded and motivated besides abuse of process of law. Even according to the applicant, the petroleum outlets are running on either side of the present outlet within short time. Therefore, the applicant has no locus standi to object the same for the present. In any event, this respondent is unnecessary party to the present proceedings. Hence, the original petition is rejected in so far this respondent is concerned.

5) It is admitted that the Petroleum retail outlet already opened by the 6th respondent in the said survey field. However, it is not admitted that the distance between the school and the retail outlet is less than 30 metres. The outlet started long back and this respondent is no way connected with the order passed by the respondents 1 and 2.

6) This respondent is no way connected with the proceedings initiated by the Tamil Nadu Pollution Control Board and Central Pollution Control Board.

7) The applicant has not made or leveled any allegation against the 5th respondent. Therefore, this respondent is no way connected with the site approval and the license granted in favour of the 6th respondent by the competent authorities concerned.

8) This respondent submits that the 6th respondent has constructed a building measuring 16 x 26 feet without any approval from the 6th respondent. Without approval from the Erode City Municipal Corporation, they have no right to put up any construction for the retail outlet. According to the Erode City Municipal Corporation Act 2008, every person intending to construct or establish any factory, workshop or work place to install in any machinery or manufacturing plant, shall before beginning such construction, make an application in writing to the commissioner for permissions to undertake the intended work. Further, the application shall specify the plan, machineries etc. After receipt of the application, the commissioner of the Erode City Municipal Corporation can grant the permission subject to the conditions as mandated under law. However, the 6th respondent

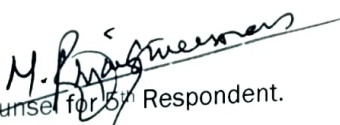
has not applied for construction of buildings in the demised premises and that therefore this respondent has caused notice to the 6th respondent under section 296(1) of Erode City Municipal Corporation Act 2008 as to why the un-authorized construction made by them should not be removed or demolished. Further, the 5th respondent has caused notice to the 6th respondent under section 296(2) of Erode City Municipal Corporation Act 2008 as to why due to the construction of un-authorized construction made in the premises, the person cannot be prosecuted in the manner known to law. The proceedings initiated by the 5th respondent against 6th respondent under sections 296(1) and 296(2) of Erode City Municipal Corporation Act 2008 are pending for further proceedings.

9) This respondent submits that he is no way connected with the running of retail outlet. Anyhow, the 5th respondent has to take steps to demolish the un authorized construction after due notice as mandated under law.

10) Anyhow, the 5th respondent is to ready to abide the order of this Honourable court.

11) This respondent reserves his right to file a detailed counter statement as and when further particulars are obtained.

12) This respondent therefore prays that the petition filed by the petitioner may be dismissed as against the 5th respondent with costs and thus render justice.


Counsel for 5th Respondent.


COMMISSIONER,
Erode City Municipal Corporation
5th Respondent

I, the above named respondent herein do hereby declare that the contents of the above paragraphs are true and correct to the best of my knowledge, belief and information and I signed this at Chennai on 26.10.2021.


COMMISSIONER,
Erode City Municipal Corporation
5th Respondent

HEARING DATE : 28.10.2021

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Original Application No.118 of 2021(SZ)

D.Sakthivel
S/o. Devaraj
No.23, Main Road,
PavaiThanneerpandalPalayam,
Periyasemur,
Erode District-638 004. Applicant

-Vs-

The District Collector
Erode District,
Collectorate Complex, State Highway 96,
Opp. District Court, Palayapalayam,
Erode-638 001 and 7 Others
.... Respondents

COUNTER AFFIDAVIT FILED BY THE 5TH
RESPONDENT

M/s. M.RAJAMATHIVANAN
COUNSEL FOR 5TH RESPONDENT
9942408185